

ANNEX A

SAMPLE PROJECT ARRANGEMENT

PROJECT ARRANGEMENT

AMONG [OR BETWEEN] THE [List Titles of PA Participants]

FOR THE [Insert Title of Project]

UNDER

THE FRAMEWORK MEMORANDUM OF UNDERSTANDING

CONCERNING COOPERATION IN

POST-PRODUCTION SUPPORT OF HARRIER AIRCRAFT OF _____

INTRODUCTION

This Project Arrangement (PA) is established under, and is subject to, the Framework Memorandum of Understanding Among the Minister of Defense of the Republic of Italy and the Minister of Defense of the Kingdom of Spain and the Secretary of State for Defence of the United Kingdom of Great Britain and Northern Ireland and the Secretary of Defense on behalf of the Department of Defense of the United States of America Concerning Cooperation in Post-Production Support of Harrier Aircraft of _____ (hereinafter referred to as "the Harrier Framework MOU"). The PA Participants in this PA are: [list PA Participants].

SECTION ONE: DEFINITIONS OF TERMS AND ABBREVIATIONS

(Define only those terms used in this PA that have not been defined in the MOU).

| | |
|--------------------------------|--|
| Project Foreground Information | Information generated in the performance of the Project. |
|--------------------------------|--|

SECTION TWO: OBJECTIVES

2.1. The objectives of this _____ Project are:

2.1.1. The development of _____

2.1.2. The improvement of _____

SECTION THREE: SCOPE OF WORK

3.1. The following work will be carried out under this PA.

3.1.1. Develop _____

3.1.2. Evaluate _____

3.1.3. Design, fabricate and test _____

SECTION FOUR: MANAGEMENT

4.1. The Project Steering Committee (PSC) members are as follows: [List should reflect titles of the PSC members of only the actual PA Participants]

4.1.1. [PA Participant 1] - [title, position]

4.1.2. [PA Participant 2] - [title, position]

4.1.3. [PA Participant 3] - [title, position]

4.1.4. [PA Participant 4] - [title, position]

4.2. The [Insert PA Participant appointing the Project Manager] will appoint the Project Manager (PM) for the Project.

4.3. The Deputy Project Managers (DPMs) are as follows: [List should reflect the titles of the Deputy Project Managers of only the actual PA Participants, other than the PA Participant appointing the Project Manager]

4.3.1. [PA Participant 1] Deputy Project Manager: [title, position]

4.3.2. [PA Participant 2] Deputy Project Manager: [title, position]

4.3.3. [PA Participant 3] Deputy Project Manager: [title, position]

4.4. Particular Management Procedures:

[Mention only those additional management responsibilities not covered under Section IV (Management (Organization and Responsibility) of the Harrier Framework MOU.)]

SECTION FIVE: FINANCIAL ARRANGEMENTS

5.1. The PA Participants estimate that the performance of the responsibilities under this PA will not cost more than a Financial Cost Ceiling of [insert amount in Then Year dollars]. The U.S. dollar will be the reference currency for the Project, and the fiscal year for the Project will be the U.S. Fiscal Year. The Financial Cost Ceiling may be changed only upon the mutual written consent of the PA Participants.

5.2. The Financial Costs of the Project, as identified in this Section of this PA, will be shared according to the following percentages:

| <u>Participant</u> | <u>Percentage Share</u> |
|--------------------|-------------------------|
| [PA Participant 1] | [X]% |
| [PA Participant 2] | [X]% |
| [PA Participant 3] | [X]% |
| [PA Participant 4] | [X]% |

[If there will be non-financial contributions other than the PM or DPMs assigned to the Project office, insert the following paragraphs 5.3 and 5.4.]

5.3. The PA Participants non-financial contributions include the following:

5.3.1. [List PA Participants] personnel assigned to the Project Office in accordance with paragraphs 4.2 and 4.3 of Section IV (Management) of this PA.

5.3.2. [In this and subsequent subparagraphs, as necessary, describe and assign dollar value to each non-financial contribution]

5.4. Exclusive of paragraph 5.3.1, [List PA Participants] financial and non-financial contributions, expressed in Then Year U.S. dollars, are reflected in Table 5-1 below:

Table 5-1:

| | FINANCIAL | NON-FINANCIAL | TOTAL |
|--------------------|-----------|---------------|-------|
| [PA Participant 1] | | | |
| [PA Participant 2] | | | |
| [PA Participant 3] | | | |
| [PA Participant 4] | | | |

SECTION SIX: DISCLOSURE AND USE OF PROJECT INFORMATION

6.1. As required under paragraph 8.2 of Section VIII (Disclosure and Use of Program Information) of the Harrier Framework MOU, the following paragraphs detail the arrangements regarding the availability to the PA Participants of Project Information, the use of Project Information, and Patents rights for Project Inventions. Transfer of such Information to Contractors will be consistent with each PA Participant's applicable export control laws and export control regulations.

6.2. Government Project Foreground Information

6.2.1. Disclosure: All Project Foreground Information generated by a PA Participant's military or civilian employees will be disclosed without charge to the other PA Participants.

6.2.2. Use: Each PA Participant may use or have used such Government Project Foreground Information without charge for Defense Purposes. The MOU Participant generating Government Project Foreground Information will also retain its rights of use thereto. Any sale or other transfer to a Third Party will be subject to the provisions of Section Eight (Third Party Sales and Transfers) of this PA.

6.3. Government Project Background Information

6.3.1. Disclosure: Each PA Participant, upon request, will disclose to the other PA Participants any relevant Government Project Background Information generated by its military or civilian employees, provided that:

6.3.1.1. such Project Background Information is necessary to or useful in the Project, with the PA Participant in possession of the information determining whether it is "necessary to" or "useful in" the Project;

6.3.1.2. such Project Background Information may be made available without incurring liability to holders of proprietary rights;

6.3.1.3. disclosure is consistent with national disclosure policies and regulations of the furnishing PA Participant; and

6.3.1.4. any disclosure or transfer of such Project Background Information to Contractors is consistent with the furnishing PA Participant's export control laws and export control regulations.

6.3.2. Use: Government Project Background Information disclosed by one PA Participant to the other PA Participants may be used without charge by or for the other PA Participants for Project purposes. The furnishing PA Participant will retain all its rights with respect to such Project Background Information.

6.4. Contractor Project Foreground Information

6.4.1. Disclosure: Project Foreground Information generated and delivered by Contractors, will be disclosed without charge to the PA Participants.

6.4.2. Use: Each PA Participant may use or have used without charge for its Defense Purposes all Contractor Project Foreground Information generated and delivered by Contractors of the other PA Participants. The PA Participant whose Contractors generate and deliver Contractor Project Foreground Information will also retain rights of use thereto in accordance with the applicable Contract(s). Any sale or other transfer to a Third Party of Contractor Project Foreground Information will be subject to the provisions of Section Eight (Third Party Sales and Transfers) of this PA.

6.5. Contractor Project Background Information

6.5.1. Disclosure: Any Project Background Information generated and delivered by Contractors will be made available to the other PA Participants provided the following provisions are met:

6.5.1.1. such Project Background Information is necessary to or useful in the Project, with the PA Participant in possession of the

information determining whether it is "necessary to" or "useful in" the Project;

- 6.5.1.2. such Project Background Information may be made available without incurring liability to holders of proprietary rights;
- 6.5.1.3. disclosure is consistent with national disclosure policies and regulations of the furnishing PA Participant; and
- 6.5.1.4. any disclosure or transfer of such Project Background Information to Contractors is consistent with the furnishing MOU Participant's export control laws and export control regulations.

6.5.2. Use: Project Background Information furnished by one PA Participant's Contractors and disclosed to the other PA Participants may be used without charge by or for the other PA Participants for Project purposes only, and may be subject to further restrictions by holders of proprietary rights; however, the furnishing PA Participant will retain all its rights with respect to such Project Background Information.

6.6. Alternative Uses of Project Information

- 6.6.1. Any Project Background Information provided by one PA Participant will be used by the other PA Participants only for the purposes set forth in this PA, unless otherwise consented to in writing by the providing PA Participant.
- 6.6.2. The prior written consent of each PA Participant will be required for the use of Project Foreground Information for purposes other than those provided for in this PA.

6.7. Proprietary Project Information

- 6.7.1. All Project Information subject to proprietary interests will be identified and marked, and it will be handled as Controlled Unclassified Information.
- 6.7.2. The provisions of the NATO Agreement on the Communication of Technical Information for

Defence Purposes, done at Brussels on 19 October 1970, and the Implementing Procedures for the NATO Agreement on the Communication of Technical Information for Defence Purposes, approved by the North Atlantic Council on 1 January 1971, will apply to proprietary Project Information related to this PA.

6.8. Patents

- 6.8.1. Each PA Participant will include in all its Contracts for the Project a provision governing the disposition of rights in regard to Project Inventions and Patent rights relating thereto, which either:
 - 6.8.1.1. Provides that the PA Participant will hold title to all such Project Inventions together with the right to make Patent applications for the same, free of encumbrance from the Contractor concerned; or
 - 6.8.1.2. Provides that the Contractor will hold title (or may elect to retain title) for such Project Inventions together with the right to make Patent applications for the same, while securing for the PA Participants a license for the Project Inventions, and any Patents thereto, on terms in compliance with the provisions of paragraph 6.8.2 below.
- 6.8.2. In the event that a Contractor holds title (or elects to retain title) for any Project Invention, the Contracting PA Participant will secure for the other PA Participants non-exclusive, irrevocable, royalty-free licenses under all Patents secured for that invention, to practice or have practiced the patented Project Invention for Defense Purposes.
- 6.8.3. The provisions of subparagraphs 6.8.4 through 6.8.7 below will apply in regard to Patent rights for all Project Inventions made by the PA Participants' military or civilian employees, including those within Government-owned facilities, and for all Project Inventions made by Contractors for which the Contracting PA

Participant holds title or is entitled to acquire title.

- 6.8.4. Where a PA Participant has or can secure the right to file a Patent application with regard to a Project Invention, that PA Participant will consult the other PA Participants regarding the filing of such Patent application. The PA Participant which has or receives title to such Project Invention will, in other countries, file, cause to be filed, or provide the other PA Participants with the opportunity to file, on behalf of the PA Participant holding title, Patent applications covering that Project Invention. If a PA Participant, having filed or caused to be filed a Patent application, decides to stop prosecution of the application or to cease maintaining the Patent granted or issued on the application, that PA Participant will notify the other PA Participants of that decision and permit the other PA Participants to continue the prosecution, or maintain the Patent as the case may be.
- 6.8.5. Each PA Participant will be furnished with copies of the Patent applications filed and Patents granted with regard to Project Inventions.
- 6.8.6. Each PA Participant will grant to the other PA Participants a non-exclusive, irrevocable, royalty-free license under its Patents for Project Inventions, to practice or have practiced the Project Invention for Defense Purposes.
- 6.8.7. Patent applications to be filed under this PA that contain Classified Information will be protected and safeguarded in accordance with the requirements contained in the NATO Agreement for the Mutual Safeguarding of Secrecy of Inventions Relating to Defence and for which Applications for Patents have been Made, done in Paris on 21 September 1960, and its Implementing Procedures.
- 6.8.8. Each PA Participant will notify the other PA Participants of any Patent infringement claims made in its territory arising in the course of work performed under the Project. Insofar as possible, the other PA Participants will provide

Information available to them that may assist in defending the claim. Each PA Participant will be responsible for handling all Patent infringement claims made in its territory, and will consult with the other PA Participants during the handling, and prior to any settlement, of such claims. The PA Participants will share the costs of resolving Patent infringement claims in the same ratios as specified for their financial contributions in this PA. The PA Participants will, in accordance with their national laws and practices, give their authorization and consent for all use and manufacture in the course of work performed under the Project of any invention covered by a Patent issued by their respective countries.

SECTION SEVEN: CLASSIFICATION

[The PA Participants will choose to include one of the following alternatives:

7.1. No Classified Information will be exchanged under this PA.

Or

7.1. The highest level of Classified Information exchanged under this PA is
CONFIDENTIAL.

Or

7.1. The highest level of Classified Information exchanged under this PA is **SECRET.]**

SECTION EIGHT: THIRD PARTY SALES AND TRANSFERS

8.1. The PA Participants will not sell, transfer title to, disclose, or transfer possession of Project Foreground Information, Project Equipment jointly acquired under a PA, or any item produced either wholly or in part from Project Foreground Information to any Third Party without the prior written consent of the other PA Participants' governments. Furthermore, no PA Participant will permit any such sale, disclosure, or transfer, including by the owner, without the prior written consent of the other PA Participants' governments. Such consent will not be given unless the government of the intended recipient confirms in writing that it will:

8.1.1. not retransfer, or permit the retransfer of, any Information or equipment provided; and

8.1.2. use, or permit the use of, the Information or equipment provided only for the purposes specified by the PA Participants.

8.2. A PA Participant will not sell, transfer title to, disclose, or transfer possession of Project Foreground Information, Project Equipment jointly acquired under the PA, or any items produced either wholly or in part from Project Foreground Information to an MOU Participant that is not a signatory to this PA without the written consent of the other PA Participants' governments. A MOU Participant who is permitted to receive Information or equipment from a PA to which it is not a signatory will be required to confirm in writing that it will not retransfer, or permit the further retransfer of, any such Information or equipment provided, and that it will use, or permit the use of, the Information or equipment provided only for the purposes specified by the PA Participants.

8.3. A PA Participant will not sell, transfer title to, disclose, or transfer possession of Project Background information or Project Equipment provided by another PA Participant under paragraph 7.2.1 of Section VII (Project Equipment) of the Harrier Framework MOU to any Third Party and to any MOU Participant who is not a signatory to that PA without the prior written consent of the government of the PA Participant which provided such Information or equipment. The providing PA Participant's government will be solely responsible for authorizing such transfers and as applicable, specifying the methods and provisions for implementing such transfers. A PA Participant will not sell, transfer title to, disclose or

transfer possession of Project Equipment provided by an MOU Participant under paragraph 7.1.1 of Section VII (Project Equipment) of the Harrier Framework MOU to any Third Party and to any MOU Participant who is not a signatory to that PA without the prior written consent of the providing MOU Participant's government and the government of any other MOU Participant that has an interest in such Project Equipment. The providing MOU Participant's government and the government of any other MOU Participant that has an interest in such Project Equipment will be responsible for authorizing such transfers and as applicable, specifying the methods and provisions for implementing such transfers.

[Provision for levy, in the event that Participants chose to insert such a provision: 8.4. Sales or other transfers to Third Parties of equipment developed under this PA may attract a levy to be shared among the PA Participants. Prior to any such sale or other transfer, the amounts of the levy and the procedures for assessing and distributing such levy will be mutually determined by the PA Participants consistent with the laws and regulations of each PA Participant. Any PA Participant may reduce the assessment of its share of the levy.]